

STATE OF MICHIGAN
COURT OF APPEALS

MICHAEL BURNS,

Plaintiff-Appellant,

v

MARY CATHERINE BURNS,

Defendant-Appellee.

UNPUBLISHED

March 20, 2003

No. 234606

Muskegon Circuit Court

LC No. 99-006064-DO

Before: Schuette, P.J., and Sawyer and Wilder, JJ

PER CURIAM.

Plaintiff appeals as of right from judgment of divorce. We affirm.

I. Facts

Plaintiff/appellant Michael Burns and defendant/appellee Mary Catherine Burns were married on April 12, 1980. At the time of trial, plaintiff was forty-four years old, and defendant was forty-nine years old. This was the first marriage for plaintiff, and the second marriage for defendant. One child was born of the marriage and was eighteen years old at the time of trial.

II. Standard of Review

In reviewing a trial court's property division in a divorce case, we look to the appropriate standard of review as set forth in the case of *Sparks v Sparks*, 440 Mich 141; 485 NW2d 893 (1992). In *Sparks*, the Michigan Supreme Court held:

The appellate court must first review the trial court's findings of fact under the clearly erroneous standard. If the findings of fact are upheld, the appellate court must decide whether the dispositive ruling was fair and equitable in light of those facts. But because we recognize that the dispositional ruling is an exercise of discretion and that appellate courts are often reluctant to reverse such rulings, we hold that the ruling should be affirmed unless the appellate court is left with the firm conviction that the division was inequitable. *Id.* at 151-152. See also *Ianitelli v Ianitelli*, 199 Mich App 641, 644; 502 NW2d 691 (1993); *Draggoo v Draggoo*, 223 Mich App 415, 429; 566 NW2d 642 (1997).

III. Analysis

A. Valuation and Division of Marital Property

Plaintiff first challenges the trial court's valuation of the marital property. The *Sparks* decision also set forth relevant factors to be reviewed when formulating an equitable division of marital property and determination of spousal support, if any, as follows:

We hold that the following factors are to be considered wherever they are relevant to the circumstances of the particular case: (1) duration of the marriage, (2) contributions of the parties to the marital estate, (3) age of the parties, (4) health of the parties, (5) life status of the parties, (6) necessities and circumstances of the parties, (7) earning abilities of the parties, (8) past relations and conduct of the parties, and (9) general principles of equity. *Perrin v Perrin*, 169 Mich App 18, 22, 425 NW2d 494 (1988). There may even be additional factors that are relevant to a particular case. For example, the court may choose to consider the interruption of the personal career or education of either party. The determination of relevant factors will vary depending on the facts and circumstances of the case. *Id.* at 159-160.

Here, plaintiff argues that the trial court erred in its valuation of certain marital assets in determining the division of marital property. Specifically, plaintiff challenges the valuation of the marital home, chess sets, a 401(k) plan and two vehicles.

Upon review of the lower court proceedings, we find that the lower court's findings of fact were not clearly erroneous. Furthermore, we are not left with the firm conviction that its decision was inequitable. *Sparks, supra* at 151-152. The trial court awarded \$66,967 in property to plaintiff, and awarded \$73,166.04 in property to defendant. The trial court then ordered defendant to pay a property equalization of \$3,099.52 to plaintiff, resulting in each party receiving the equal amount of \$70,066.52. Therefore, we affirm the trial court's dispositional ruling because it was fair and equitable in light of facts of the case.

B. Spousal Support

Plaintiff next argues that the trial court erred in awarding alimony to defendant. As we stated previously, the *Sparks* decision provides a framework of review and provides for an assessment of fairness and equity in making property divisions and award of spousal support. *Sparks, supra* at 151-152, 159-160.

In the case at bar, the trial court relied heavily on the case of *Parrish v Parrish*, 138 Mich App 546, 554; 361 NW2d 366 (1984) and referred to the "Parrish factors" contained therein. The factors set forth in *Parrish* are generally incorporated in the decisions of *Sparks, supra*, *Ianitelli, supra* and *Draggoot, supra*. Our review of the lower court's factual record in determining spousal support in the instant case reveals that the lower court's decision was not clearly erroneous, nor are we left with the firm conviction it was inequitable. *Sparks, supra* at 151-152.

Affirmed.

/s/ Bill Schuette
/s/ David H. Sawyer
/s/ Kurtis T. Wilder